



Upon receipt of a duly certified copy of this order, the aforesaid keepers of the criminal records shall:

- (1) Expunge and destroy the official and unofficial arrest and other criminal records of the within Defendant/Petitioner concerning the within charges;
- (2) Request and so far as they are able, secure the return of such records as they have made available to Federal and other State agencies and shall destroy such records upon receipt thereof;
- (3) File with Defendant/Petitioner, or his counsel, within thirty days of receipt of a copy of this order, an affidavit that such have been expunged and destroyed, together with all copies of this Order in their possession.

The following information is provided:

- (1) The Defendant/Petitioner's name is Robert Eric Gordon. His date of birth is February 21, 1953. His social security number is 186-80-3986. His current address is: 2820 Fanshawe Street, Philadelphia, PA 19149.
- (2) The District Court Docket Number is 2:08-mj-01112-1.
- (3) The complaint was 18:3184F Fugitive from Foreign Country to United States based on the following charges arising out of Great Britain:

- (Count 1) Indecent assault, contrary to Section 14(1) of the Sexual Offences Act of 1956 of the United Kingdom of Great Britain.
- (Count 2) Indecent assault, contrary to Section 14(1) of the Sexual Offences Act of 1956 of the United Kingdom of Great Britain.
- (Count 3) Indecent assault, contrary to Section 14(1) of the Sexual Offences Act of 1956 of the United Kingdom of Great Britain.

- (Count 4)     Indecency with a child, contrary to Section 1(1) of the Indecency with Children Act of 1960 of the United Kingdom of Great Britain.
- (Count 5)     Indecency with a child, contrary to Section 1(1) of the Indecency with Children Act of 1960 of the United Kingdom of Great Britain.
- (Count 6)     Indecent contrary to Section 14(1) of the Sexual Offences Act of 1956 of the United Kingdom of Great Britain.
- (4)           The date of arrest was August 20, 2008, by U.S. Marshalls and the Philadelphia Police Department.
- (5)           The disposition by this Court was an order on September 3, 2008, by Magistrate Judge Timothy B. Rice, that the Defendant/Petitioner surrender himself to United States Marshalls in the Eastern District of Pennsylvania.
- (6)           The disposition by the Crown Court in Portsmouth, England was acquittal by jury on all criminal counts.
- (7)           The following criminal justice agencies shall expunge any and all records of this arrest and extradition:
  - (a)       U.S. District Court for the Eastern District of Pennsylvania;
  - (b)       The Administrative Office of the Pennsylvania Courts;
  - (c)       U.S. Marshall's Service;
  - (d)       Philadelphia Department of Police;
  - (e)       The Pennsylvania State Police Department; and
  - (f)       Federal Bureau of Investigation.

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Judge for the U.S. District Court for the Eastern District  
of Pennsylvania



(C) The complaint was 18:3184F Fugitive from Foreign Country to United States based on the following specific charges arising out of Great Britain:

- (Count 1) Indecent assault, contrary to Section 14(1) of the Sexual Offences Act of 1956 of the United Kingdom of Great Britain.
- (Count 2) Indecent assault, contrary to Section 14(1) of the Sexual Offences Act of 1956 of the United Kingdom of Great Britain.
- (Count 3) Indecent assault, contrary to Section 14(1) of the Sexual Offences Act of 1956 of the United Kingdom of Great Britain.
- (Count 4) Indecency with a child, contrary to Section 1(1) of the Indecency with Children Act of 1960 of the United Kingdom of Great Britain.
- (Count 5) Indecency with a child, contrary to Section 1(1) of the Indecency with Children Act of 1960 of the United Kingdom of Great Britain.
- (Count 6) Indecent contrary to Section 14(1) of the Sexual Offences Act of 1956 of the United Kingdom of Great Britain.

(D) The date of arrest was August 20, 2008, by U.S. Marshalls and the Philadelphia Police Department;

(E) The disposition by this Court was an order on September 3, 2008, by Magistrate Judge Timothy B. Rice, that the Defendant/Petitioner surrender himself to United States Marshalls in the Eastern District of Pennsylvania.

(F) The disposition by the Crown Court in Portsmouth, England was acquittal by jury on all criminal counts.

2. The following criminal justice agencies maintain records of this arrest and extradition and are subject to a proper order of this Court to expunge said records:

- (A) United States District Court for the Eastern District of Pennsylvania;
- (B) The Administrative Office of the Pennsylvania Courts;

- (C) U.S. Marshall's Service;
- (D) Philadelphia Department of Police;
- (E) The Pennsylvania State Police Department; and
- (F) Federal Bureau of Investigation.

3. Foreign Charges. A copy of the Indictment marked as Exhibit B, is filed with this Petition and incorporated by reference. Robert Gordon was charged with having committed the following offences:

- (Count 1) Indecent assault, contrary to Section 14(1) of the Sexual Offences Act of 1956 of the United Kingdom of Great Britain.
- (Count 2) Indecent assault, contrary to Section 14(1) of the Sexual Offences Act of 1956 of the United Kingdom of Great Britain.
- (Count 3) Indecent assault, contrary to Section 14(1) of the Sexual Offences Act of 1956 of the United Kingdom of Great Britain.
- (Count 4) Indecency with a child, contrary to Section 1(1) of the Indecency with Children Act of 1960 of the United Kingdom of Great Britain.
- (Count 5) Indecency with a child, contrary to Section 1(1) of the Indecency with Children Act of 1960 of the United Kingdom of Great Britain.
- (Count 6) Indecent assault contrary to Section 14(1) of the Sexual Offences Act of 1956 of the United Kingdom of Great Britain.

4. Foreign arrest warrant. On February 18, 2008, a Justice of the Peace at the South and South East Hampshire Magistrates Court issued a warrant for the arrest of Robert Gordon.

5. Allegations underlying foreign charges. According to an investigation by authorities of the United Kingdom of Great Britain, primarily supported by statements of the victim and two witnesses, Robert Gordon was allegedly engaged in indecent sexual

acts with a child. Specifically, Robert Gordon was charged with four counts of indecent assault, one count of gross indecency with a child, and one count of inciting a child to commit gross indecency, against Mary Theresa Carolan, allegedly committed between March 27, 1973 and March 28, 1977. Mary Carolan was born on March 27, 1962, and was 11 to 14 years-old at the time the offenses were allegedly committed. Robert Gordon was born on February 22, 1955, and was 17 to 21 years-old at the time the offenses were allegedly committed.

6. Extradition request. The extradition provisions in force between the United States and the United Kingdom are found in the Treaty on Extradition between the United States of America and the United Kingdom of Great Britain and Northern Ireland, signed on March 31, 2003 (Treaty Doc. 108-23). Pursuant to the Treaty, the United Kingdom submitted a request through diplomatic channels for the extradition of Robert Gordon, a national of the United Kingdom, and living in the United States. Gregory B. Wierzynski, an attorney in the Office of the Legal Advisor of the United States Department of State, provided the Department of Justice with a Declaration, attached to which was a true copy of Diplomatic Note (No. 31/08, dated April 21, 2008) by which the request for extradition was made. The Treaty, Diplomatic Note, Declaration, and documents supporting the extradition request – including depositions, the warrant of arrest, and a photograph of Robert Gordon, marked collectively as Exhibit C, are filed with this Petition and incorporated by reference.

7. U.S. Attorney's request for arrest warrant. On August 19, 2008, U.S. Attorney, Kevin Brenner filed a Complaint with this Court requesting that a warrant be issued in accordance with the Extradition Treaty between the United States and the United



Kingdom of Great Britain, in accordance with Article 9 of the Treaty and Title 18, U.S.C. Section 3184, so that Mr. Gordon could be arrested and brought before this court “to the end that the evidence of criminality may be heard and considered.” A copy of the Complaint, marked as Exhibit B, is filed with this Petition and incorporated by reference.

8. Arrest and extradition of Robert Gordon. On August 19, 2008 an arrest warrant was issued for Mr. Gordon who was arrested and detained on August 20, 2008. On August 22, 2008, Mr. Gordon waived his rights under the extradition treaty, agreed to be transported in custody to the United Kingdom, and was released from custody pending his extradition. On September 12, 2008, Mr. Gordon reported to the Federal Building, placed in the custody of the British police, and escorted on a flight to the United Kingdom on the same day. The Criminal Docket, Warrant for Arrest, Order, Affidavit of Waiver of Extradition, Conditions of Pretrial Release, and an Affidavit from Petitioner, marked collectively as Exhibit E, are filed with this Petition and incorporated by reference.

9. Robert Gordon was found not guilty on all criminal counts. On December 15-17, 2008, Mr. Gordon stood trial in respect to the allegations made against him by Mary Carolan. On December 17, 2008, the jury found Robert Gordon not guilty on all criminal counts in the Crown Court in Portsmouth, England. A copy of the Crown Court Disposition, marked as Exhibit F, is filed with this Petition and incorporated by reference.

10. Robert Gordon became a naturalized United States citizen. Mr. Gordon returned to the United States and on October 2, 2009 became a naturalized United States citizen. A copy of the Naturalization Certificate, marked as Exhibit A, is filed with this Petition and incorporated by reference.

11. A federal court has the inherent power to expunge an arrest and conviction record. See United States v. Noonan, 906 F.2d 952, 956 (3d Cir. 1990). It is established that the federal courts have inherent power to expunge criminal records when it necessary to preserve basic legal rights. See United States v. Rowlands, 451 F.3d 173, 177 (3d Cir. 2006). “The power is a narrow one, usually exercised in cases of illegal prosecution or acquittals and is not to be routinely used.” See United States v. Rowlands, 451 F.3d at 177 *citing* United States v. McMains, 540 F.2d 387, 389-90 (8<sup>th</sup> Cir. 1978). Only “unusually compelling circumstances . . . justify the exercise of the trial court’s ‘narrow’ power to order expunction.” See United States v. Rowlands, 451 F.3d at 176 *citing* United States v. Friesen, 853 F.2d 816, 818 (10<sup>th</sup> Cir. 1988).

12. In the instant case the following compelling circumstances for expunction exist:

(A) the fact that Defendant/Petitioner was acquitted unanimously by a jury on December 17, 2008, on all criminal counts in the Crown Court in Portsmouth, England;

(B) that the nature of the underlying criminal charges arising out of the United Kingdom - indecent assault and indecency with a child between the ages of 11 and 14 year-old – are abhorrent to society, humiliating to Defendant/Petitioner and severely blemish his character;

(C) that the criminal charges arising in the United Kingdom were likely fabricated as an act of vengeance by Mary Carolan because of a bitter divorce between Robert Gordon and her sister. See Affidavit from Petitioner, marked as Exhibit E. It is important to note that Ms. Carolan brought these criminal charges against Mr. Gordon twenty-two years after the alleged events took place making them very old and, on their face, suspect. The crimes were allegedly committed between March 27, 1973 and March 28, 1977.

Mary Carolan was born on March 27, 1962, and was 11 to 14 years-old at the time the offenses were allegedly committed. Robert Gordon was born on February 22, 1955, and was 17 to 21 years-old at the time the offenses were allegedly committed.

(D) that said false charges led to the extreme hardship, uncertainty, and humiliation of being arrested, detained, and extradited to the United Kingdom to face trial on these serious criminal counts;

(E) that said false charges led to uncertainties in Defendant/Petitioner's bid to become a Naturalized United States citizen and the repeated humiliation he endured having to explain in detail to officers of the Department of Homeland Security what he was accused of, and having to repeatedly prove that he was, in fact, eventually acquitted on all counts. See Naturalization Correspondence, marked collectively as Exhibit G; and

(F) the anxiety Defendant/Petitioner faces knowing that whenever his criminal record is required for such purposes as employment, education, housing or any other purpose, he will have to repeatedly explain what he was falsely accused of, and have to repeatedly prove that he was, in fact, eventually acquitted on all counts.

13. In the alternative, that the Defendant/Petitioner seeks expunction of his arrest and extradition records - and not the underlying criminal charges which arise out of the United Kingdom.

14. As a secondary alternative, Defendant/Petitioner, requests that at a minimum, all records indicate that he was acquitted of the charges listed above.

**WHEREFORE**, for the forgoing reasons, it is respectfully requested that this Honorable Court grant expungement of Petitioner's record of his arrest and extradition wherever it shall appear.

Respectfully submitted



Elizabeth C. Surin, Esquire

**CERTIFICATE OF SERVICE**

**CASE NAME:** USA v. GORDON

**CASE NO.:** 08-1112M

I HEREBY CERTIFY that on this 9<sup>th</sup> day of March, 2010, I caused to be served the:

**PETITION FOR EXPUNGEMENT**

X by placing a true copy thereof in a sealed envelope, with postage thereon fully prepaid and causing the same to be mailed by first class mail to the person at the address set forth below.

\_\_\_\_\_ by causing to be personally delivered a true copy thereof to the person at the address set forth below.

\_\_\_\_\_ by FEDERAL EXPRESS: AIRBORNE EXPRESS to the person at the address set forth below.

\_\_\_\_\_ by certified mail-return receipt requested to the person to the address set forth below.

\_\_\_\_\_ by telefaxing with acknowledgment of receipt to the person at the address set forth below

**ADDRESS OF PERSON BEING SERVED**

Kevin R. Brenner  
Assistant U.S. Attorney  
U.S. Attorney's Office  
615 Chestnut Street, Suite 1250  
Philadelphia, PA 19106

I declare under penalty of perjury that the foregoing is true and correct. Executed on March 9<sup>th</sup> 2010

  
/s/Elizabeth C. Surin, Esq.  
ELIZABETH C. SURIN, ESQ.